IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8196 of 1994

with

SPECIAL CIVIL APPLICATION No 8334 of 1994
TO
SPECIAL CIVIL APPLICATION NO 8357 OF 1994

For Approval and Signature:

HON'BLE MR.JUSTICE S.R.BRAHMBHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VIPULBHAI A PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8196 with SCA No. 8334 of 1994 to 8357 of 1994.

MR. SAURABH AMIN, LEARNED ADVOCATE FOR
NANAVATI ASSOCIATES for Petitioners.

MR. SUDHANSU S. PATEL, LD AGP for Respondents
in SCA No. 8196 of 1994, SCA 8334 to 8345 of 1994.

MS. DARSHNA S. PANDIT, LD. AGP for Respondents

in SCA No. 8346 to 8357 of 1994.

CORAM : HON'BLE MR.JUSTICE S.R.BRAHMBHATT

Date of decision: 14/12/2004

COMMON ORAL JUDGEMENT

1. Heard Mr. Saurabh Amin,learned advocate for M/s. Nanavati Associates for petitioners in all the petitions and learned AGP Mr. S.S. Patel in SCA No. 8196 of 1996, SCA No. 8334 to 8345 of 1994 and learned AGP Ms. D.S. Pandit in SCA No. 8346 to 8357 of 1994 for the respondents respectively.

2. In this group of petitions the petitioners are matadors and other transport owners have challenged the notifications / orders dated 4-7-1993 and 8-9-1993 issued by the District Magistrate, Panchmahals at Godhra under section 33 (1) (b) of the Bombay Police Act, 1951. The petitioners have contended that as they have complied with all the provisions of Motor Vehicles Act, 1988 and have obtained the requisite permits prior to plying their matadors / vehicles on roads, the restriction imposed upon them under the impugned notifications / orders amounts to unreasonable restriction upon their right to carry on legitimate vocation and business. The petitioners have made allegations that the impugned notifications / orders have been promulgated with a view to curb the competition faced by S.T. Corporation and therefore, this is colourable exercise on the part of the respondents authorities. The petitioners have made sweeping averments in respect of the harassments that they were facing in view of the notifications / orders. The petitioners have however not point out any particular incident and or event in support of their sweeping allegations about the harassments due to the notifications / orders. Their main challenge revolves around the alleged restriction upon their right to carry on business only.

3. Learned AGP has pointed out from the very impugned notifications / orders that before promulgating the impugned notifications / orders the competent authority had issued press release inviting objections from the public at large and after following due procedure of law said notifications / orders have been issued in the public interest. Even a cursory glance at the preface to the notifications / orders at Annexure-B would show that they have been issued for regulating the

traffic and for mitigating the hardships caused by parking of private vehicles in the vicinity of S.T. Corporation bus stops and other public places.

4. Learned AGP has also produced copy of judgment dated 28-10-2004 passed by Honourable Mr. Justice A.S. Dave in Special Civil Application No. 5037 of 1994, 13126 of 1993 and Special Civil Application No. 10734 to 10744 of 1994, wherein this very impugned notifications / orders were under challenge. The same have been dismissed as having no substance. Copy of the judgment dated 28-10-2004 is kept on record. It is to be noted that, in this group of matters also this very notifications / orders are under challenge at Annexure-B. In view of these submissions, it is held, as the impugned notifications / orders are issued in public interest and as the cognate matters have been already decided, this group of petitions deserve to be dismissed and accordingly they are dismissed. Rule is discharged in each of the petitions. Interim relief, if any, stands vacated in each petition. No order as to costs.

5. Registry is directed to keep a copy of this judgment in each of the petitions.

Dt: 14-12-2004 (S.R. BRAHMBHATT, J)

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